

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
Universal Service Reform – Mobility Fund)	WT Docket No. 10-208

COMMENTS OF THE RURAL WIRELESS ASSOCIATION, INC.

RURAL WIRELESS ASSOCIATION, INC.

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SUMMARY

The Rural Wireless Association, Inc. (“RWA”) files these comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) Further Notice of Proposed Rulemaking regarding the area eligibility challenge process for Mobility Fund Phase II (“MFII”).

RWA proposes a challenge process that is not unduly burdensome on challenged carriers or on challengers, and that satisfies the Commission’s goal of administrative efficiency. Areas initially deemed ineligible for MFII support would be subject to challenge (“Challenged Area(s)”). A prospective challenging carrier, government entity, individual, or business must have standing. A Challenger must timely file its formal challenge with the Commission. In the filing, a Challenger would specify its standing and define the Challenged Area as well as its basis for the challenge. In addition, a Challenger may also provide evidence as to whether a carrier is unsubsidized in the Challenged Area.

Upon receiving notice of a challenge, the carrier(s) serving the Challenged Area (“Challenged Carrier(s)”) would then supply the Challenger (or a third party) with data similar to what the Commission required for 700 MHz band coverage buildout notifications. This data would be used to create a coverage map using a field strength measurement of -85 dBm. If both the Challenger and Challenged Carrier accept the -85 dBm field strength coverage map, the map will be filed with the Commission. The geographic area inside -85 dBm is considered covered by 4G LTE service and the geographic area outside -85 dBm is eligible for MFII support. If either party disputes portions of the coverage map created by the Challenger (or the Challenger’s RF engineer) using the Challenged Carrier’s data, the parties and/or their representatives could: (1) work to resolve the dispute by comparing methodologies; and/or (2) complete statistically

representative drive/sample testing. Such testing could be done by one party, both parties, or a third party.

RWA is concerned that the *AT&T Proposal* would place a tremendous burden on rural wireless carriers. RWA notes that all parties involved in the challenge process must utilize the same coverage data. A “covered area” must have the Commission-specified threshold speed *on or before the last day of the reporting period applicable to the Form 477 data used* – not any date on or before the challenge process start date. Further, the *AT&T Proposal*’s data specifications and timeline clearly favor nationwide carriers by requiring rural carriers to drive test or app-test tens of thousands of census blocks using the proposed protocol – a task estimated to take thousands of hours. Finally, RWA believes that the *AT&T Proposal*’s proof of coverage standard and app/drive testing procedures cause additional concerns.

RWA reiterated its position that MFII service/deployment obligations must be clear, ensure accuracy, and avoid imposing egregious costs on rural wireless carriers with limited resources. In particular, RWA disagrees with the *AT&T Proposal*’s contention that predictive models should not be allowed for the purpose of MFII reporting and compliance, and urges the Commission to utilize a -85 dBm coverage standard and accompanying propagation map when it defines the content and format of the information that recipients are required to include in their Milestone Reports.

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The Rural Wireless Association, Inc. (“RWA”)¹ files these comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) Further Notice of Proposed Rulemaking² regarding the area eligibility challenge process for Mobility Fund Phase II (“MFII”), and its corresponding Initial Regulatory Flexibility Analysis.³ RWA welcomes the opportunity to submit comments on challenge process procedures – an issue of great importance to its carrier members and the rural consumers they serve.

V. RWA’S CHALLENGE PROCESS PROPOSAL IS NOT UNDULY BURDENSOME ON CHALLENGED CARRIERS OR CHALLENGERS, AND WILL BE ADMINISTRATIVELY EFFICIENT.

RWA shares the Commission’s commitment to designing a challenge process that

¹ RWA is a 501(c)(6) trade association dedicated to promoting wireless opportunities for rural telecommunications companies who serve rural consumers and those consumers traveling to rural America. RWA’s members are small businesses serving or seeking to serve secondary, tertiary, and rural markets. RWA’s members are comprised of both independent wireless carriers and wireless carriers that are affiliated with rural telephone companies. Each of RWA’s member companies serves fewer than 100,000 subscribers.

² *Connect America Fund, et al.*, [Report and Order and Further Notice of Proposed Rulemaking](#), WC Docket No. 10-90, WT Docket No. 10-208, FCC 17-11 (rel. Mar. 7, 2017) (“*FNPRM*”).

³ The Commission has a statutory duty to consider significant alternatives to reduce the burden of its rules on small providers. 5 U.S.C. § 603, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law No. 104-121, 110 Stat. 857 (1996). RWA’s proposals herein should be considered as alternatives, less burdensome proposals in response to the Commission’s Initial Regulatory Flexibility Analysis. *FNPRM*, Appendix C.

does not unduly burden challenging or challenged parties,⁴ accounts for small wireless carriers' limited resources,⁵ and is administratively efficient.⁶ RWA's challenge process proposal is similar in some ways to the plan proposed by U.S. Cellular (dubbed "Option A" in the *FNPRM*),⁷ and is discussed in-depth below.

a. Challenged Areas and Challengers.

Under RWA's challenge process proposal, areas initially deemed ineligible for MFII support – where unsubsidized carriers have reported provision of LTE service at the requisite download speed and 1 Mbps upload⁸ speed in a given area on FCC Form 477 – would be subject to challenge ("Challenged Area(s)"). The Commission sought comment regarding whether it should permit challenges for areas identified as eligible for MFII support – actions that are, in essence, Form 477 corrections.⁹ RWA is concerned that allowing Form 477 corrections to take place concurrently with the challenge process would cause unnecessary confusion, and may lead to delays. Instead, the Commission should release the Form 477 data that it plans to use, and provide wireless carriers an opportunity to review and correct their data ahead of the initial area eligibility determinations and challenge process. This would be consistent with what was done in the CAF II proceeding.¹⁰

⁴ *FNPRM* at ¶ 227.

⁵ *Id.*

⁶ *Id.* at ¶ 228.

⁷ *Id.* at ¶¶ 232-240. *See also* Letter from David LaFuria, Lukas, LaFuria, Gutierrez & Sachs, LLP, Counsel to U.S. Cellular, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 and WT Docket No. 10-208, at [Prelim. Proposal](#) (filed Feb. 17, 2017).

⁸ [Rural Wireless Association, Inc. Petition for Reconsideration and/or Clarification](#), WC Docket No. 10-90, WT Docket No. 10-208, at pp. 2-11) (filed Apr. 12, 2017) (asking the Commission to reconsider its 5 Mbps download area eligibility speed threshold in favor of a 10 Mbps download/1 Mbps upload threshold) ("*RWA Petition for Reconsideration*").

⁹ *FNPRM* at ¶ 235.

¹⁰ *Connect America Fund*, [Order](#), WC Docket No. 10-90, at ¶¶ 7-8 (rel. July 25, 2016) (discussing the A-CAM challenge process).

Under RWA's proposal, a prospective Challenger must have standing. A challenging carrier must have either: (1) licensed spectrum in the Challenged Area; (2) ETC designation in the Challenged Area; or (3) an intent expressed via signed affidavit to seek ETC designation in the Challenged Area if successful in the MFII reverse auction. Licensed spectrum should not be the only way to show standing. While MFII auction applicants must have access to spectrum necessary to fulfill any obligations related to support,¹¹ carriers should be allowed to challenge an area's MFII support eligibility prior to securing such access given that the challenge process will take place before MFII auction applications will be due.

A Challenger could also be: (1) a state or local government body/agency with jurisdiction over the Challenged Area; (2) a resident of the Challenged Area (as proven by a state-issued identification card, a signed residential lease, or a utility bill addressed to the resident); or (3) a business with premises in the Challenged Area (as proven by a lease, utility bill or business license that depicts the business address in the Challenged Area). RWA believes that businesses and individual residents with standing should be eligible to be Challengers in addition to wireless carriers and governmental entities. Whether or not a geographic area is eligible for MFII support will have a tremendous impact on stakeholders for at least the next decade. Excluding those that will experience this impact most acutely seems imprudent.¹² While the Commission and staff rely on inconsistent (and often overstated)¹³ Form 477 data to

¹¹ *FNPRM* at ¶ 124.

¹² See [Letter](#) from Mark N. Lewellen, Manager, Spectrum Policy, Deere & Company to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 and WT Docket No. 10-208 (filed Feb. 16, 2017) (stating that the process for determining areas eligible for MF-II funding should not exclude potential wireless customers from participation).

¹³ See e.g., [Letter](#) from David LaFuria to Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-208, WC Docket No. 10-90 (Oct. 27, 2016) (stating "U.S. Cellular presented a study authored by CostQuest, providing the Commission with drive test data recently performed in South Carolina. A series of tests revealed different levels of coverage in rural areas compared to the

determine where the holes in mobile service exist, rural consumers and business owners know *exactly* where their wireless service is nonexistent. RWA believes that the standing requirement, as well as the assumption of engineering costs for the services described below, will be sufficient to deter frivolous challenges.

A Challenger must timely file its formal challenge with the Commission. In the filing, a Challenger would specify its standing and define the Challenged Area as well as its basis for the challenge. In addition, a Challenger may also provide evidence as to whether a carrier is unsubsidized in the Challenged Area. As proposed in Option A, the specific Challenge Area may be for a partial census block or full census block(s). RWA is still considering the Commission's questions regarding a minimum size for a Challenged Area, and recognizes the importance of encouraging legitimate challenges while promoting an administratively (and cost) efficient process. RWA offers an initial proposal of five square miles for discussion.

b. Challenged Carrier Response.

Upon receiving notice of a challenge, the carrier(s) serving the Challenged Area ("Challenged Carrier(s)") would then supply the Challenger with data similar to what the Commission required for 700 MHz band coverage buildout notifications. RWA's previous filings have discussed an approach utilizing the adoption of a filing format with which the Commission is already familiar.¹⁴ The Wireless Telecommunications Bureau released a Public

aggregated FCC Form 477 data released last month. Specifically, CostQuest's multiple drive tests revealed consistently lower coverage levels, and fewer successful connections to 4G LTE data networks than the aggregated Form 477 data might be interpreted to suggest for South Carolina.").

¹⁴ See [Letter](#) to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, from Caressa D. Bennet, General Counsel, Rural Wireless Association, Inc., WT Docket No. 10-208, WC Docket No. 10-90, at p. 3. RWA suggested utilizing this method to report Form 477 data, but it could be equally helpful in the challenge process, as well as MFII reporting and compliance procedures.

Notice in October 2015¹⁵ that established the format for filing electronic coverage maps associated with certain 700 MHz band coverage buildout notifications. These instructions could easily be used as an objective standard by which to report coverage data.

Data must be supplied in a .csv (or other standard) file format. Given the sensitive nature of the data, the Challenged Carrier could request that the Challenger sign a non-disclosure agreement (“NDA”) prior to disclosing the data. The Challenger would then use the data to create a coverage map using a field strength measurement of -85 dBm.¹⁶

If the sensitive nature of the data is such that unsubsidized carriers are concerned about providing such information even under a NDA, the Challenged Carriers could file the information confidentially with the Commission, subject to a protective order limiting disclosure to counsel and outside experts (like RF engineers) who are not involved in competitive decision-making. In this scenario, upon signing the appropriate acknowledgment, a Challenger’s third-party RF engineer would have access to the data in order to create the coverage map. The Challenger itself would not have access to the data, which should alleviate competitive concerns.

If both the Challenger and Challenged Carrier accept the -85 dBm field strength coverage map, the map will be filed with the Commission. The geographic area inside -85 dBm is considered covered by 4G LTE service and the geographic area outside -85 dBm is eligible for MFII support. RWA estimates that this first stage of the challenge process will require 12-18 weeks, and the Commission could begin implementation relatively quickly.

c. Dispute Resolution.

If either party disputes portions of the coverage map created by the Challenger (or the

¹⁵ See [Public Notice](#), Wireless Telecommunications Bureau Establishes Electronic Map Format for Covered 700 MHz Band Licensee Construction Notifications, DA 15-1193 (Oct. 16, 2015).

¹⁶ As proposed, Option A also specifies the use of a -85 dBm standard. See *U.S. Cellular Proposal*.

Challenger's RF engineer) using the Challenged Carrier's data, the parties and/or their representatives could: (1) work to resolve the dispute by comparing methodologies; and/or (2) complete statistically representative drive/sample testing. Such testing could be done by one party, both parties, or a third party. The losing party would pay predetermined drive/sample testing costs. Drive/sample testing may consist of the following (or equivalent) types of RF testing: (1) drive test equipment capable of recording signal strength, and both upload and download speeds for licensed spectrum used by the Challenged Carrier; or (2) industry accepted network performance testing applications loaded on an end user device.

Testing would be limited to major county roads and other statistically representative locations that would adequately represent the customer experience – an area that provides sufficient data to illustrate service is not generally available. If 90 percent of an area has service at the requisite speeds after averaging the miles covered, then service is considered “generally available.” In order to determine the area's service percentage, the calculation will require drive test data collected once per tenth of a mile or all the different app location readings. If 10 percent of the roads driven do not have service at the requisite speeds, then the area is considered unserved. If 90 percent of all the area's roads have service at the requisite speeds, then the coverage is considered adequate. An alternate method for determining service would be to calibrate the drive test plot to the actual propagation model. If the model can be shown as tuned to 90 percent accuracy, then the model will be considered sufficient to represent the entire area for coverage purposes.

The data collection shall include latitude and longitude, RSRP, download and upload speeds, and latency. The map shall include shape files showing the roads driven and point marked on the road where the test passed in green or failed in red. Information must be provided

to the FCC in standard format for easy interpretation. RWA estimates that this second stage of the challenge process will require an additional 16-20 weeks.

d. Challenge Based on Other Factors.

If the Challenger bases its challenge on the Challenged Carrier's status as an unsubsidized carrier in the Challenged Area, the Challenger shall be required to produce evidence that the Challenged Carrier is not an unsubsidized carrier in the Challenged Area. The Challenged Carrier will then have an opportunity to dispute the claim and the Commission will determine if the Challenged Area is an unsubsidized area based on the facts presented by the parties.

VI. THE AT&T PROPOSAL WOULD PLACE A TREMENDOUS BURDEN ON RURAL WIRELESS CARRIERS.

RWA has already expressed its serious concerns¹⁷ regarding a proposal filed by AT&T Services, Inc. ("AT&T"), Atlantic Tele-Network, Inc. ("ATN"), and Buffalo-Lake Erie Wireless Systems Co. ("Blue Wireless"), also known as "Option B" in the *FNPRM*.¹⁸ While its concern regarding several other parts of the *AT&T Proposal* (including but not limited to the use of census tracts as the "smallest bidding unit," and its unsupported cost estimates) remains, RWA will limit its comments here to the *AT&T Proposal* items relevant to the MFII challenge process.

¹⁷ See [Letter](#) from Caressa D. Bennet, General Counsel, Rural Wireless Association, Inc., to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 10-208, WC Docket No. 10-90 (Feb. 16, 2017).

¹⁸ [AT&T Services, Inc., Atlantic Tele-Network, Inc., and Buffalo-Lake Erie Wireless Systems Co. Revised Joint Proposal for Mobility Fund Phase II](#), WT Docket No. 10-208, WC Docket No. 10-90 (Feb. 9, 2017) ("*AT&T Proposal*").

a. All Parties Involved in the Challenge Process Must Utilize the Same Coverage Data.

As a threshold matter, the *AT&T Proposal* defines a “covered area” as a census block or partial census block that has “average outdoor wireless LTE download speed of at least 5 Mbps as measured *on or before the start date of the improvement process...*”¹⁹ RWA disagrees with the timing of this measurement. A “covered area” must have the Commission-specified threshold speed *on or before the last day of the reporting period applicable to the Form 477 data used* – not any date on or before the challenge process start date. All parties must be able to work from the same data set. Similarly, speculative build out information should not be a factor.²⁰ Square miles within a census block are either covered or not covered. Speculative build out plans would add another level of uncertainty to what is already likely to be a tremendously expensive and arduous process.

b. The *AT&T Proposal*’s Data Specifications and Timeline Clearly Favor Nationwide Carriers.

The *AT&T Proposal* would require rural carriers to drive test or app-test tens of thousands of census blocks using the proposed protocol – a task estimated to take thousands of hours. RWA carrier members believe that the *AT&T Proposal* data submission requirements would be more costly and onerous than those required after MFI. RWA agrees with Union Wireless that the *AT&T Proposal* would “prove to be extremely burdensome, especially for small carriers” because it would require challenging carriers to test thousands of census blocks in

¹⁹ *AT&T Proposal* at p. 4.

²⁰ *Id.* (stating “Parties would be able to notify the FCC of current construction or future plans to cover an area...”).

a very short period of time.²¹ Further, RWA concurs with the LLGS Carriers that “small carriers do not have anywhere near the physical resources needed to test thousands of census blocks or drive test a substantial portion of their rural service areas, pursuant to the [AT&T Proposal].”²²

Other carriers have expressed similar concerns, stating that “the use of a challenge process that relies upon fundamentally flawed data and in turn places the burden on challengers to disprove coverage claimed by multiple national providers across millions of square miles in a thirty to sixty-day window will fail and leave huge coverage gaps in rural America.”²³ U.S. Cellular agrees, noting that “[i]t will be difficult, if not impossible, for small competitors to rebut coverage claims for multiple carriers that is overstated in rural areas. This harms rural consumers living in areas the FCC concludes to be covered, but which can never receive support needed to deliver high-quality service.”²⁴

²¹ [Letter](#) from David LaFuria, Lukas, LaFuria, Gutierrez & Sachs, LLP, Counsel to Union Telephone Company d/b/a Union Wireless, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 and WT Docket No. 10-208 (filed Feb. 16, 2017).

²² [Letter](#) from David LaFuria, Lukas, LaFuria, Gutierrez & Sachs, LLP, Counsel to Cellular South, Inc. d/b/a C Spire, NE Colorado Cellular, Inc. d/b/a Viaero Wireless, Smith Bagley, Inc., East Kentucky Network, LLC d/b/a Appalachian Wireless, Nex-Tech Wireless, LLC, Union Telephone Company d/b/a Union Wireless, Pine Cellular Phones, Inc. and Cellular Network Partnership, d/b/a Pioneer Cellular (the “LLGS Carriers”), to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 and WT Docket No. 10-208 (filed Feb. 16, 2017) (noting that: (1) testing 10,000 census blocks, just 5% of the total census blocks in Oregon, is estimated to take, at a minimum, 1,111 nine-hour shifts of work; and (2) substantial drive testing and reporting data could take small carriers 6 months or longer – much more than the AT&T’s *Proposal*’s 60 days).

²³ [Letter](#) to The Honorable Ajit Pai, Chairman, Federal Communications Commission, from Appalachian Wireless, *et. al.*, WT Docket No. 10-208, WC Docket No. 10-90 (Feb. 14, 2017).

²⁴ [Letter to](#) Marlene H. Dortch, Secretary, FCC, from David LaFuria, Counsel for United States Cellular Corporation, WT Docket No. 10-208, WC Docket No. 10-90 (Feb. 14, 2017).

c. The AT&T Proposal's Proof of Coverage Standard is Unclear.

The *AT&T Proposal* states that proof of coverage is “measured download speed test data...taken from at least three different locations” at least a quarter mile apart.²⁵ First, the *AT&T Proposal* does not include a 1 Mbps upload speed threshold. RWA has previously expressed concern that, despite indications that area eligibility determinations would be made using a 5 Mbps download/1 Mbps upload speed, and the fact that the *Connect America Fund Order* specifies an upload threshold,²⁶ the *MFII Order* adopted a 5 Mbps download threshold and does not consider or specify an upload speed.²⁷ It is quite common for wireless networks to have a download speed of at least 5 Mbps, but an upload speed of less than 1 Mbps. Under the Commission’s area eligibility standard (and the *AT&T Proposal*), areas served with 5 Mbps download but only 500 Kbps upload (or less) would be considered *ineligible* for MFII funding. This means that areas currently served by subsidized rural carriers at 5/1 (and often 10/1) speeds will be ineligible for MFII support – and may lose that service – if an unsubsidized carrier is only

²⁵ *AT&T Proposal* at p. 7.

²⁶ *Connect America Fund, et al.*, [Report and Order and Further Notice of Proposed Rulemaking](#), WC Docket Nos. 10-90, 14-58 and 14-259, FCC 16-64, at ¶ 51 (rel. May 26, 2016) (stating that “only census blocks lacking 10/1 Mbps service from any provider will be eligible for bidding” with limited exceptions.). See also [Letter](#) from Caressa D. Bennet, General Counsel, Rural Wireless Association, Inc., to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 10-208, WC Docket No. 10-90 (Mar. 31, 2017)

²⁷ *Connect America Fund, et al.*, [Report and Order and Further Notice of Proposed Rulemaking](#), WC Docket No. 10-90, WT Docket No. 10-208, FCC 17-11 at ¶ 51 (rel. Mar. 7, 2017) (stating “Looking to the mobile speeds generally reported by nationwide carriers on their Form 477 submissions, we find that such carriers are generally reporting the deployment of 4G LTE reported at minimum advertised download speeds of at least 5 Mbps. We accordingly will use this speed benchmark to identify areas eligible for MF-II.”) (“*MFII Order*”). See also [Public Notice](#), *The Wireless Telecommunications Bureau and the Wireline Competition Bureau Propose to Release Form 477 4G LTE Mobile Speed Data to Facilitate Implementation of Mobility Fund II Support*, DA 17-286 (rel. Mar. 29, 2017) (stating “To identify those geographical areas potentially eligible for such support, the Commission decided to use 4G LTE deployment at a minimum advertised download speed benchmark of at least 5 Mbps, based on service providers’ Form 477 filings.”)

providing 5 Mbps download and less than 1 Mbps upload. This will strand rural consumers by sticking them with *worse* service from unsubsidized providers, no competition to prompt network improvements over time, and no guarantee of another Mobility Fund auction to improve service. Because upload speeds are crucial to the consumer experience, RWA urges the Commission to clarify the area eligibility speed threshold²⁸ includes a 1 Mbps upload threshold and to reject the *AT&T Proposal*.

Also, for areas larger than three quarters of a mile there is no additional information given to indicate what would then be considered a representative number of points necessary to make a determination, and what the outcome of the data collected would need to exceed in order to pass or fall below in order to fail. Further, if the block is on private property or less than three quarters of a square mile in size, the test cannot be completed and written documentation indicating why the test was not completed is required.²⁹ Does this mean the block passes the coverage standard because there is not adequate test data to accept or decline, or does it fail because it is incomplete?

Further, there should be consistency between the challenge process and the build out reporting requirements. Under the *AT&T Proposal*'s challenge process requirements, **all census blocks** must have average speeds of greater than 5 Mbps.³⁰ But, under the *AT&T Proposal*'s deployment reporting and compliance requirements, the MFII support winner is allowed to **average the speeds of the census blocks together** within the tract to determine if the tract meets the speed requirement.³¹ Absurdly, carriers that ultimately receive MFII (taxpayer) support

²⁸ *AT&T Proposal* at p. 7; see also *RWA Petition for Reconsideration* at pp. 9-11.

²⁹ *AT&T Proposal* at p. 7.

³⁰ *Id.* at pp. 8-9 (emphasis added).

³¹ *Id.* at p. 11 (emphasis added).

would be granted an easier method to prove coverage than those participating in the challenge process.

d. The *AT&T Proposal*'s App and Drive Testing Procedures Cause Additional Concern.

RWA has some additional concerns regarding the *AT&T Proposal*'s speed test app proof of coverage standards. First, what happens if a tester does not go to each census block and fulfill five tests over a 10 minute period for at least three locations? Is the report then not valid?³² It seems likely that there will be a significant number of invalid tests, simply based on those temporal and distance requirements. RWA agrees with U.S. Cellular that there should be “a fulsome examination of the various app-based tools, which may significantly reduce the level of effort needed to complete a challenge, as well as alternative testing procedures that do not burden small business.”³³

RWA has expressed its frustration with drive testing issues in past filings.³⁴ As its members' Mobility Fund Phase I (“MFI”) funding recipients are all too aware, drive testing is a complicated and costly process. By way of example, the drive testing process took one RWA member ten months (five months to drive test and five months to process the data) for 1200 square miles. Similarly, challenge process drive testing costs to collect and process data will be enormous – estimates are in the hundreds of thousands of dollars for 1,000 square miles. The cost for mobile data consumed on another carrier's network during testing runs *alone* will be as much at \$100 per day per device. The *AT&T Proposal* provides no discussion regarding how many of the roads must be tested in an area to prove or disprove service – only that test locations

³² *AT&T Proposal* at p. 7 (emphasis added).

³³ *February U.S. Cellular Ex Parte* at p. 2.

³⁴ See [Letter](#) to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, from Caressa D. Bennet, General Counsel, Rural Wireless Association, Inc., WT Docket No. 10-208, WC Docket No. 10-90, at p. 4 (Nov. 10, 2016).

must be distributed with not more than a quarter of a mile of separation.³⁵ If the *AT&T Proposal* were adopted, would testing occur in a one-quarter mile grid? This is impossible in rural areas because many of the points would fall on private property. How does data along a road apply between census blocks?

Under the *AT&T Proposal*, does one point on a road cover two census blocks if the roadway is the dividing point between the two blocks? Or, do twice the number of points need to be taken and split across the road way? The *AT&T Proposal* provides no discussion on what drive test results are necessary to pass (or fail) the coverage threshold – only that the results should be provided whether they are below or above a 5 Mbps average outdoor download speed threshold. No discussion was included to indicate whether one location causes a whole block to fail, or if there is a percentage/average used to indicate pass or fail. And again, the *AT&T Proposal* offers no discussion of an appropriate upload speed threshold.

Further, drive tests create large data files. How will the data files be transferred to the Commission, and to the carrier whose coverage is in question? What handsets should be used in drive testing? Subscribers are now paying for their own handsets, and often purchase the most inexpensive device available. If a specific group of handsets is proscribed for testing purposes, this group should include some low cost devices.

VII. MFII SERVICE/DEPLOYMENT OBLIGATIONS AND REPORTING REQUIREMENTS MUST BE CLEAR, ENSURE ACCURACY, AND AVOID IMPOSING EGREGIOUS COSTS ON RURAL WIRELESS CARRIERS WITH LIMITED RESOURCES.

RWA agrees that all MFII obligations must be clearly known before the auction occurs, and those obligations should not change or evolve over the course of the program term. RWA members that received MFI disbursements were tasked with costly drive testing

³⁵ *AT&T Proposal* at p. 7.

requirements and reporting obligations to prove coverage of road miles *after* bidding in the reverse auction. Because the Commission did not outline the process to satisfy build out obligations prior to MFI reverse auction bidding, bidders were not aware of the additional costs that would be incurred to prove the funding was put to its intended purpose.³⁶ A similar outcome after MFII bidding takes place should be avoided at all costs.

However, RWA *disagrees* with the *AT&T Proposal*'s contention that predictive models should not be allowed for the purpose of MFII reporting and compliance.³⁷ RWA urges the Commission to direct the Bureaus to utilize the -85 dBm coverage standard and accompanying map discussed above when they define the content and format of the information that recipients are required to include in their Milestone Reports.

RWA reiterates its support for Commission adoption of compliance assessment methods that *do not* require drive testing. During the MFI reporting process, drive testing often had to be outsourced, which drove up costs in excess of available funding. Given that there are other acceptable methods for providing construction notification, the Commission should do away with drive testing and rely instead on construction notifications like those that have been

³⁶ In order to request funding disbursements, MFI recipients are required to verify their network deployments and available coverage using compliant drive test data, which is then *further* verified by USAC through a subsequent on-site validation process. Details of the Commission's exacting coverage reporting requirements were not released until June 2014, nearly two years after the Auction 901 application deadline and over 20 months after the auction. Conforming to these previously unknown requirements often gave rise to higher drive testing costs and lengthy processing delays. See [Public Notice](#), *Guidance on Annual Reports and Other Reporting Requirements for Recipients of Support Under Phase I of the Mobility Fund (Including Tribal Mobility Fund)*; *2014 Annual Report Filing Deadline Extended to July 31, 2014*; *Specifications for Shapefile Data to be Submitted with FCC Form 690*, WT Docket No. 10-208, DA 14-843 (rel. June 19, 2014). The Commission's June 19, 2014 public notice provided no details regarding the mandatory on-site validation process.

³⁷ *AT&T Proposal* at p. 11.

used in other spectrum build out proceedings. Other rural wireless carriers have echoed this sentiment.³⁸

VIII. CONCLUSION

The *RWA Proposal* offers several benefits. First, it places the coverage data production requirement on the Challenged Carrier – the party that actually holds the data. Second, it places the initial cost of promulgating a challenge (producing a coverage map) on the Challenger. Third, it will allow parties to avoid the costly, complicated, and time-consuming undertaking of sample/drive testing in many cases. Finally, the *RWA Proposal* places the costs of sample/drive testing on the party that incorrectly disputes the coverage map’s accuracy, and allows parties to minimize such costs by utilizing statistically representative testing rather than testing an entire area. These attributes will help the Commission to satisfy its commitment to designing a challenge process that does not unduly burden challenging or challenged parties,³⁹ accounts for small wireless carriers’ limited resources,⁴⁰ and is administratively efficient. The *AT&T Proposal* prompts more questions than it answers, and would place a tremendous financial and temporal burden on rural wireless carriers. RWA urges the Commission to adopt MFII challenge process and reporting requirements that are clear, ensure accuracy, and avoid imposing egregious costs on rural wireless carriers with already-limited resources. RWA looks forward to its continued work with the Chairman, Commissioners, and Commission staff in this proceeding.

³⁸ [Letter](#) from Clare Liedquist, Herman & Whitaker, LLC, Counsel to Chariton Valley Wireless Services, Farmers Telephone Company, Inc., Leaco Rural Telephone Cooperative, Inc., and Northwest Missouri Cellular Partnership, WC Docket No. 10-90 and WT Docket No. 10-208 (Feb. 10, 2017) (recommending that verification of network deployment be by propagation modelling rather than comprehensive drive tests).

³⁹ *FNPRM* at ¶ 227.

⁴⁰ *Id.*

Respectfully submitted,

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